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8 UNITED STATES DISTRICT COURT
9 WESTERN DISTRICT OF WASHINGTON
10 AT TACOMA

11 TOBY J. MASSE,

12 Plaintiff,

13 v.

14 PAT GLEBE, *et al.*

15 Defendants.
16

Case No. C08-5752 RBL/KLS

ORDER TO SHOW CAUSE

17 This case has been referred to United States Magistrate Judge Karen L. Strombom pursuant to 28
18 U.S.C. § 636(b)(1) and Local MJR 3 and 4. This matter comes before the Court on the filing of Plaintiff
19 Toby J. Masse's motion to proceed *in forma pauperis*. Dkt. # 1. Plaintiff is currently detained at the
20 Washington State Penitentiary in Walla Walla, Washington. To file a complaint and initial legal
21 proceedings, a plaintiff must file a filing fee of \$350.00 or file a proper application to proceed *in forma*
22 *pauperis*.

23 A court may permit indigent litigants to proceed *in forma pauperis* upon completion of a proper
24 affidavit of indigency. *See* 28 U.S.C. § 1915(a). However, a court has broad discretion in denying an
25 application to proceed *in forma pauperis*. *Weller v. Dickson*, 314 F.2d 598 (9th Cir. 1963), *cert. denied*,
26 375 U.S. 845 (1963). Several district courts have ruled that denial of *in forma pauperis* status is not
27 unreasonable when a prisoner is able to pay the initial expenses required to commence a lawsuit. *See*
28 *Temple v. Ellerthorpe*, 586 F.Supp. 848 (D.R.I. 1984); *Braden v. Estelle*, 428 F.Supp. 595 (S.D.Tex.

1 1977); *U.S. ex rel. Irons v. Com. of Pa.*, 407 F.Supp. 746 (M.D.Pa. 1976); *Shimabuku v. Britton*, 357
2 F.Supp. 825 (D.Kan. 1973), *aff'd*, 503 F.2d 38 (10th Cir. 1974); *Ward v. Werner*, 61 F.R.D. 639 (M.D.Pa.
3 1974).

4 Pursuant to 28 U.S.C. § 1915(a)(2):

5 A prisoner seeking to bring a civil action or appeal a judgment in a civil action or
6 proceeding without prepayment of fees or security therefor . . . shall submit a certified
7 copy of the trust fund account statement (or institutional equivalent) for the prisoner for
8 the 6-month period immediately preceding the filing of the complaint or notice of
9 appeal, obtained from the appropriate official of each prison at which the prisoner is or
10 was confined.

11 In addition, pursuant to 28 U.S.C. § 1915(b), a prisoner seeking to proceed *in forma pauperis* is
12 required to submit a written acknowledgment and authorization form, authorizing the agency having
13 custody over him to collect from his prison trust account an initial partial filing fee and subsequent
14 monthly payments until the full filing fee is paid. Mr. Masse did not submit the acknowledgment and
15 authorization form approved for use by this court.

16 By letter dated January 7, 2009, the Court Clerk advised Mr. Masse that he was required to pay
17 the full filing fee of \$350.00 or that he must provide the Court with a completed *in forma pauperis*
18 application, and that he should do so by February 6, 2009 or this action could be dismissed. Dkt. # 2.
19 Mr. Masse has not paid the filing fee or submitted a completed application.

20 Accordingly, it is **ORDERED**:

- 21 (1) Plaintiff shall submit a completed *in forma pauperis* application, which shall include a
22 copy of his prison trust account statement showing the balance and activity of his account
23 for the six-month period immediately preceding the filing of his petition and a written
24 acknowledgement and authorization form, to the Clerk **on or before April 17, 2009**.
25 Alternatively, Plaintiff shall pay the full \$350.00 filing fee required to proceed with this
26 action **on or before April 17, 2009**.
- 27 (2) **Failure to cure these deficiencies by the above date shall be deemed a failure to**
28 **properly prosecute this matter and the Court will recommend dismissal of this**
matter.
- (3) The Clerk is directed to send a copy of this Order to Plaintiff.

DATED this 18th day of March, 2009.



Karen L. Strombom
United States Magistrate Judge